IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE.

WRIT PETITIONNO.4502 OF 2007

PARSHURAM DEVAJI PATIL ... PETITIONER

VS.

THE CHIEF EXECUTIVE OFFIER

Z.P. RAIGAD (ALIBAG) &ORS. ... RESPONDENTS.

MR. S.S.PAKALE FOR THE PETITIONER.

LMR. N.P.DESHPANDE AGP FOR THE RESPONDENT NO. 4.

CORAM : J.N.PATEL & AMJAD A. SAYED, JJ.

DATE : June 13, 2007.

P.C.

1. The Petitioner has approached this Court, invoking its Supervisory and Writ Jurisdiction, challenging the transfer from Panchayat Samiti Pen to Education department, Alibag, on administrative ground

2. It is the case of the Petitioner that the impugned Order dated 8th May, 2007 is not only mala fide but contrary to the guide-lines issued by the Respondent NO.4 in accordance with the Government Resolution dated 25.4.2005, Circular dated 19.5.2006,

which governs the service condition of the Petitioner, in so far as it relates to the transfer and clause 8 of the said Government Resolution, which is regarding general instructions to be followed while effecting transfer of Zilla Parishad Employees, which clearly states that employee who is reaching the age of superannuation (less than one year is remaining for superannuation), the transfer of such employee shall not be made even on the administrative grounds and therefore, this Court should grant interim Order, staying the transfer of the Petitioner, till the Petition is finally disposed of, otherwise, the petition will become infructuous.

3. In our view, issuing notice to the Respondents before admission or admitting the petition would serve no purpose. On the other hand, the petition can be disposed of by giving liberty to the Petitioner to make a representation to the Competent Authority, who has ordered transfer of the Petitioner, to consider his case in the light of clause (8) of the Government Resolution, which governs the service conditions, specifically, transfers and the Competent Authority will then take a decision in the matter.

4. The learned Counsel for the Petitioner submits that till then the Court may protect the Petitioner as

he has not been relieved yet. The statement has been made by the learned Counsel for the Petitioner, after taking instructions from the Petitioner, who is present in Court today. If it is so, we direct the Petitioner to make a representation to the Competent Authority, within a week from the date of this Order and on making such a representation, the Competent Authority will take a decision within two weeks from the date of receipt of such representation and pass a reasoned Order, till then, the parties to maintain status quo.

5. Petition stands disposed of in the aforesaid terms.

6. Parties to act on authenticated copy of this Order duly authenticated by the PA / Associate of this Court.

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[Amjad A.Sayed, J] [J.N.Patel, J.]